IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.Rev.Pet.No. 2823 of 2007()

CRA.366/2005 of ADDL. SESSIONS COURT, ALAPPUZHA
CC.364/2003 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA

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REVN. PETITIONER/APPELLANT/ACCUSED:

UTHAMAN K., AGED 48 YEARS,
S/O.KARUNAKARAN, RESIDING AT KALITHATTUNGAL HOUSE,
SOUTH ARYAD, AVALOOKUNNU P.O., ALAPPUZHA DIST.
(NOW UNDER GOING IMPRISONMENT IN CENTRAL PRISON,
THIRUVANANTHAPURAM FROM 02.05.2006).

BY ADV. SRI.MANJU ANTONEY

RESPONDENTS/COMPLAINANT:

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1. K.MADANAPPAN,
RESIDING AT POKKATHE VELI HOUSE, AVALOOKKUNNU P.O.
ALAPPUZHA DIST.

2. STATE OF KERALA REPRESENTED BY
HOME SECRETARY, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/08/2007 ALONG WITH CRL.R.P.2824 & CONN.CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.R.P.Nos.2823,2824,2825,
2826 & 2827 of 2007

Dated this the 17th day of August 2007

O R D E R

These five criminal revision petitions have been filed by the common petitioner aggrieved by the verdict of guilty, conviction and sentence imposed on him concurrently by the trial court and the court of revision. Details of the five revision petitions are given below:

Sl. No.	No.of the Crl.R.P	***Trial court proceedings No./Name of court***	***Crl.Appeal No.***	***Sentence which the petitioner has now to undergo as per the decision of appellate court.***
1	Crl.R.P .No.2823/07	C.C.No.364 /2003, CJM Court, Alappuzha	Crl.A.No.366/05 Addl.Sessions Court, Alappuzha	S.I for 3 months and compensation Rs.35,000/- in default S.I for further three months.

Sl. No.	No.of the Crl.R.P	***Trial court proceedings No./Name of court***	***Crl.Appeal No.***	***Sentence which the petitioner has now to undergo as per the decision of appellate court.***
2	Crl.R.P .No.2824/07	C.C.No.73/2004 JFMC-II (Mobile), Alappuzha	Crl.A.No.14/05 Addl.Sessions Court (Fast Track Court II), Alappuzha	S.I for 3 months and cheque amount of Rs.60,000/-. In default S.I for further three months. Rs.2,000/- to the complainant and in default S.I for 15 days.
3	Crl.R.P .No.2825/07	C.C.No.323/2004 JFMC II, Alappuzha	Crl.A.538/05 Addl.Sessions Court (Fast Track II), Alappuzha	S.I for 3 months & cheque amount Rs.40,000/-. In default S.I for further three months. Rs.2,000/- to the complainant and in default S.I for further 15 days.
4	Crl.R.P .No.2826/07	C.C.No.404/2003 J.F.M.C.II, Alappuzha	Crl.A.No.304/2004 Addl.Sessions Court, Alappuzha	S.I for 3 months & cheque amount Rs.90,000/- in default S.I for further three months. Rs.2,000/- to the complainant and in default S.I for further 15 days.
5	Crl.R.P .No.2827/07	C.C.No.132/2004 J.F.M.C.II (Mobile), Alappuzha	Crl.A.No.650/2004 Sessions Court, Alappuzha	S.I for 3 months & amount of Rs.1,12,000/- as compensation. In default S.I for further three months

2. The petitioner was an accused in three other cases also. Substantive sentences of imprisonment, directions for payment of compensation and default sentences were imposed in all these eight cases. The petitioner did not prefer revision petitions in those matters. But the petitioner came to this court after he was sent to prison with effect from 02/05/2006. By order dated 22/11/2006 in Crl.M.C.No.2865/06, this court had directed that the substantive sentences of imprisonment in the following eight cases including the five cases shown above shall run concurrently.

1. C.C.No.404 of 2003 of J.F.C.M-II, Alappuzha,
2. C.C.No.41 of 2004 of J.F.C.M-II, Alappuzha,
3. C.C.No.429 of 2003 of J.F.C.M-II, Alappuzha,
4. C.C.No.73 of 2004 of J.F.C.M-II, Alappuzha,
5. C.C.No.901 of 2003 of J.F.C.M-I, Cherthala,
6. C.C.No.132 of 2004 of J.F.C.M-II, Alappuzha,
7. C.C.No.323 of 2004 of J.F.C.M-II, Alappuzha
8. C.C.No.364 of 2003 of C.J.M, Alappuzha.

3. The petitioner is even now continuing in custody, it is submitted, as the default sentences have not been undergone by now. It was made clear in the order in Crl.M.C.No.2865/06 that the default sentences shall have to be undergone separately and consecutively.

4. Later, the petitioner came to this court and filed these five revision petitions before this curt. These Crl.R.Ps were filed along with applications to condone the delay in filing the same. Another Bench of this court dealing with Crl.R.Ps have condoned such delay in all the five petitions. Thereafter these revision petitions have been sent to this court for admission hearing and disposal.

5. Respondents have all been served. There is no appearance of any respondent except the respondent in Crl.R.P.No.2824/07. In all other Crl.RPs the respondent/complainant has chosen not to appear. These five Crl.R.Ps are admitted.

6. The learned counsel for the petitioner makes only one submission before this court. He does not assail the verdicts of guilty. He does not assail the substantive sentences of imprisonment imposed which have been directed to run concurrently as per the order in Crl.M.C No.2865/06. He does not assail the directions for payment of compensation also. The petitioner assails only the default sentences prescribed in all these five cases. The learned counsel for the petitioner submits that this court may take into account all the relevant inputs including the fact that the petitioner has been continuing in custody from 2/5/2006. It is prayed that a lenient view may be taken and the default sentences may be suitably reduced. It is submitted that the petitioner is really impecunious and is unable to raise the amount. He is hence not able to pay the amounts and save himself of the trauma of undergoing the default sentences. In these circumstances, the counsel prays that the default sentences imposed in these cases may be suitably reduced to enable the petitioner who has been continuing in prison for the last more than one year to come out of the prison.

7. The learned counsel for the respondent in Crl.R.P.No.2824/07 who alone has chosen to enter appearance does not oppose the prayer for reduction of the default sentence.

8. Having considered all the relevant inputs, I am satisfied that the prayer for reduction of the default sentences can be considered favourably. I take note of the fact that in all these cases substantive sentences of imprisonment have been imposed. A direction to undergo default sentence of S.I for a period of one month each in all these five cases shall, I am satisfied, serve the ends of justice eminently. The total period of default sentences for the compensation amount as well as cost which has been ordered in each of these case can be redressed to one month.

9. In the result, these Crl.R.Ps are allowed in part. The impugned verdicts of guilty, conviction, substantive sentences of imprisonment, direction that substantive sentences shall run concurrently and the directions for payment of compensation and cost are all upheld. But it is directed that the total default sentences imposed in each of these cases shall be reduced to S.I for a period of one month in each case.

10. The registry shall communicate the direction to the prison authorities concerned (Central Prison, Thiruvananthapuram) forthwith.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007